

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

JOHN HUBER, in his individual capacity
and as Personal Representative of the
ESTATE OF ANTHONY HUBER,

Plaintiff,

Case No. 21-CV-969

v.

DAVID G. BETH, in his individual and official
capacity as Kenosha County Sheriff, DANIEL
G. MISKINIS, in his individual and official
capacity as the former Chief of Police for the
Kenosha Police Department, ERIC LARSEN, in
his official capacity as the acting Chief of Police
for the Kenosha Police Department, JOHN DOE
POLICE OFFICERS of the Kenosha Police
Department and Kenosha County Sheriff's
Department, CITY OF KENOSHA, and COUNTY
OF KENOSHA,

Defendants.

DAVID G. BETH AND KENOSHA COUNTY'S MOTION TO DISMISS

Defendants, David G. Beth and Kenosha County, by their attorneys, Crivello Carlson, S.C., respectfully move the Court for an order dismissing Plaintiff's Complaint on its merits and with prejudice, pursuant to Fed. R. Civ. P. 12(b)(6) and 12(b)(7). Dismissal of each claim is appropriate because the Complaint fails to state a claim for which relief may be granted and/or due to the applicability of qualified immunity, discretionary immunity, and/or statutory immunity under Wis. Stat. § 893.80(4). Additionally, should any claims survive these defenses, the action should nevertheless

be dismissed pursuant to Federal Rule of Civil Procedure 12(b)(7) for failure to join Kyle Rittenhouse, a necessary party.

This motion is based upon the pleadings and the brief in support filed herewith. Through this motion, the County Defendants also seek the costs and disbursements of this motion and action.

Dated this 22nd day of October, 2021.

By: /s/ Sara C. Mills
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